



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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BOSTON, MASSACHUSETTS 02114-2023

Records Center

**URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

**Final Notice of Opportunity to Join De Minimis Consent Decree or**  
**RD/RA Consent Decree at the Solvents Recovery Service of New England Superfund Site**

TO: Certain Potentially Responsible Parties for the Solvents Recovery Service of New England Superfund Site in Southington, CT (as listed on the attached mailing list)

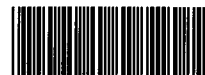
DATE: July 8, 2008

By a letter dated September 20, 2006, the United States Environmental Protection Agency ("EPA") invited you, along with other potentially responsible parties ("PRPs"), to participate in negotiations for the performance of the Remedial Design/Remedial Action ("RD/RA") and for reimbursement of response costs at the Solvents Recovery Service of New England Superfund Site, in Southington, CT (hereafter referred to as "the Site"). Our records indicate that you did not participate in these negotiations. This letter provides you with: (1) notice that EPA has concluded its negotiations with the PRPs that are represented by the PRP steering committee (the "SRSNE Site PRP Group" or "PRP Group"), and (2) a final opportunity to join a planned De Minimis Consent Decree or RD/RA Consent Decree for this Site. This is your final opportunity to join the planned settlements.

**BACKGROUND AND UPDATE**

EPA has previously provided you with notice that you are a PRP at this Site, pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9607(a). In addition, EPA has previously provided you with opportunities to join prior settlements reached at this Site. Since 1993, a group of about 250 PRPs has performed response action work at the Site under two separate consent orders. Our records indicate that you have not joined prior settlements reached at this Site, that you have not joined the SRSNE Site PRP Group, or that you are no longer a member of the PRP Group.

At this time, the United States and the State of Connecticut (the "Governments") have successfully concluded negotiations with the SRSNE Site PRP Group. Based on these negotiations, the Governments are planning two separate consent decrees for this Site:



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1. 2008 De Minimis Settlement ("De Minimis Consent Decree"); and
2. Consent Decree Regarding Solvents Recovery Service of New England, Inc. Superfund Site ("RD/RA Decree").

Copies of both Consent Decrees are provided on the enclosed CD-ROM.

#### **ELIGIBILITY FOR DE MINIMIS CONSENT DECREE**

A party is eligible to join the De Minimis Consent Decree only if its volumetric contribution to the Site is less than 200,000 gallons. Any party whose contribution to the Site is 200,000 gallons or more is not eligible to participate in this settlement, but may participate in the RD/RA Consent Decree. See Appendix A of the De Minimis Consent Decree for a list of those parties that are eligible to join the De Minimis Consent Decree.

#### **DE MINIMIS PARTIES MAY JOIN EITHER THE DE MINIMIS OR RD/RA DECREE**

Parties that are eligible to join the De Minimis Consent Decree, i.e., parties that sent less than 200,000 gallons of waste to the Site, may choose to participate in either the De Minimis Consent Decree or the RD/RA Consent Decree.

Parties that are not eligible to join the De Minimis Consent Decree may only join the RD/RA Decree.

#### **PRP STEERING COMMITTEE**

If you would like to contact the PRP steering committee with any questions regarding these planned settlements, you may contact the SRSNE Site PRP Group at the following address:

American Environmental Consultants  
30 Purgatory Road  
Mont Vernon, NH 03057  
ATTN: Randy Smith  
Telephone: 603-673-0004  
Fax: 603-672-0004  
Email: RandyCSmith1@cs.com

#### **PROCEDURE FOR JOINING THE DE MINIMIS OR RD/RA DECREE**

The SRSNE Site PRP Group is collecting executed signature pages and payments for the planned settlements.

In order to join the De Minimis Consent Decree, you must submit an executed PRP signature page for the De Minimis Consent Decree, and a official bank check for the amount set forth on Appendix A, Column H, to the SRSNE Site PRP Group by August 15, 2008. Your payment must be made by a bank check made payable to the "SRS Site 2008 De Minimis Settlement Trust."

In order to join the RD/RA Decree, you must submit an executed PRP signature page for the RD/RA Decree, along with payment, to the SRSNE Site PRP Group by August 15, 2008. You should contact the SRSNE Site PRP Group to determine the amount of the payment required, and other details relevant to joining the settlement. Your payment must be made by a bank check made payable to the "Solvents Recovery Service of New England, Inc. Settlement Trust."

You should mail your executed signature page and payment to the SRSNE Site PRP Group at: American Environmental Consultants, 30 Purgatory Road, Mont Vernon, NH 03057 - ATTN: Randy Smith.

### **OVERVIEW OF THE DE MINIMIS CONSENT DECREE**

Prior to joining the De Minimis Consent Decree, you should carefully review the settlement documents and all the terms of the settlement. The following provides a brief overview of some portion of the De Minimis Settlement.

1. De Minimis Settling Defendants will be required to pay \$3.03 per gallon of waste sent to the Site. This payment covers past and future response costs plus appropriate premiums, as well as natural resource damages. In addition, De Minimis Settling Defendants that are not members of the SRSNE Site PRP Group ("Non Member De Minimis Settlers") have been assessed a "catch-up" payment, which is calculated based the rate of \$0.5687 per gallon of waste. The "catch-up" payment represents the Non Member De Minimis Settlor's payment for the costs that the SRSNE Site PRP Group has incurred in performing work at the Site in the past. Some Non Member De Minimis Settlers also will receive a credit which reflects payments they have made to the PRP Group in the past. Finally, Non Member De Minimis Settlers have been assessed a "Non Member" charge of \$500. This charge is intended to recover a portion of the transactional costs that the United States and the State incurred in negotiating the De Minimis settlement. The total settlement payment to be paid by each potential De Minimis Settlor is listed in Appendix A of the De Minimis Consent Decree, Column H.

Pursuant to Section VI of the De Minimis Consent Decree, all of the De Minimis Settlers' payments will be collected by a trustee and deposited into a trust. The trustee will then make payments from the trust to three parties: (a) to EPA for its past and future response costs; (b) to the State for damages to natural resources under the State's trusteeship; and (c) to the United States Department of the Interior for damages to natural resources under its trusteeship.

The balance remaining in the trust will be used to fund performance of the remedy at the Site by the Settling Defendants who are parties to the RD/RA Consent Decree (discussed below).

2. In exchange for these settlement payments, the Governments covenant not to sue the parties participating in this settlement for further civil or administrative environmental liabilities in connection with the Site. You should carefully review the De Minimis Consent Decree to determine the exact nature and extent of these covenants. These de minimis covenants provide the most comprehensive final settlement available under CERCLA. The covenants also cover liabilities for damages to natural resources under federal and state trusteeship. These covenants do not include the broad reservation of rights for future liabilities that are required in most other Superfund settlements. These covenants are contained in Section IX of the De Minimis Consent Decree.

3. By signing the Consent Decree, each De Minimis Settling Defendant will be certifying to the best of its knowledge and belief the accuracy of the information upon which this settlement is based for each individual party. You should carefully read the certifications contained in Section VIII of the De Minimis Consent Decree.

### **OVERVIEW OF THE RD/RA CONSENT DECREE**

Prior to joining the RD/RA Consent Decree, you should carefully review the settlement documents and all of the terms of the settlement. The following provides a brief overview of some portion of the RD/RA Consent Decree.

1. Under the RD/RA Decree, the Settling Defendants agree to perform the Remedial Design/Remedial Action required under the Consent Decree and Statement of Work, to pay a portion of EPA's past costs, to pay the State for a portion of its natural resource damages, to pay the United States Department of the Interior for a portion of its natural resource damages, and to pay EPA and the State for their future oversight and response costs. See Sections VI and XVI of the Consent Decree, and the Statement of Work (Appendix B to the RD/RA Consent Decree). The Settling Defendants' obligations under the RD/RA Consent Decree are joint and several.

2. In return, the RD/RA Consent Decree provides the settlors with covenants not to sue regarding civil or administrative environmental liabilities in connection with the Site, and covenants not to sue regarding liability for damages to natural resources under federal and state trusteeship. These covenants not to sue are subject to general reservations of rights and reopeners for unknown conditions and new information. You should carefully review the RD/RA Consent Decree to determine the exact nature and extent of these covenants not to sue. The United States and the State's covenants not to sue are contained in Section XXI of the RD/RA Consent Decree.

3. As explained above, a portion of the settlement payments collected under the De Minimis Consent Decree will be used to fund a portion of the Settling Defendants' obligations under the RD/RA Consent Decree. See Section XVI of the RD/RA Consent Decree.

### **INABILITY TO MAKE PAYMENTS**

If you would like to join either of these settlements, but are unable to pay your share because of financial hardship, you may ask EPA to review your financial status and request an "ability to pay" settlement. In order to request an "ability to pay" settlement, you must submit your request to EPA in writing so that it is received by EPA on or before August 1, 2008. You should send your request to Audrey Zucker, Senior Enforcement Counsel, at the address provided at the end of this letter.

Even if you do request an ability to pay settlement and timely submit your financial information, it is likely that EPA will not be able to analyze your financial information and make a determination regarding your eligibility for an ability to pay settlement prior to the deadline for submitting your signature page regarding either settlement. In that case, EPA understands that you will be in a difficult position, because you will not know, at the time of this deadline, whether or not you will be offered an ability to pay settlement. Accordingly, in the event that (a) you make a timely request for an ability to pay settlement, (b) make a timely submission of your financial information, (c) choose not to participate in either settlement pending the outcome of EPA's analysis of your financial information, and (d) EPA ultimately decides not to offer you an ability to pay settlement, then the Governments plan to offer you a settlement based on terms similar to the de minimis settlement or the RD/RA settlement. In that case you will not be prejudiced for failing to participate in either settlement as of the deadline.

### **DEFENSES TO LIABILITY**

A number of parties have not joined previous settlements regarding the Site because they believe they have a defense to liability, including defenses based on corporate law (such as claims that they are not successors to the liabilities of the original generator of the waste). EPA has not evaluated those claimed defenses. Therefore, with this letter, EPA is giving those parties the opportunity to participate in the planned settlements even though they may believe they have a valid defense to liability. However, if you believe in good faith that you have a valid defense to liability, and you do not wish to sign either settlement, you do not need to do anything at this time. EPA may, in the future, evaluate whether to take further action against any parties who have not participated in a settlement and, as part of that evaluation, review any documentation you may have submitted in support of your claimed defense to liability. At this point, however, EPA believes you are in the best position to evaluate the strength of your claimed defense to liability and to decide whether to join one of the settlements or risk litigation in the future.

Please be advised that if you do not join one of these settlements, other PRPs may assert claims against you regarding the Site, including claims for contribution under CERCLA.

**PRP RESPONSE AND EPA CONTACT PERSON**

In summary, in order to join either the De Minimis Consent Decree or the RD/RA Decree, you must return your signed signature page to the relevant settlement, together with your payment, to the SRSNE Site PRP Group at the address provided on page 2 of this letter, by August 15, 2008.

With respect to both settlements, the SRSNE Site PRP Group plans to transmit all executed signature pages to EPA at the same time. You should contact the PRP Group directly about its internal agreements on when, and under what conditions, it plans to transmit the executed signature pages to EPA.

If you do not submit an executed signature page to the SRSNE Site PRP Group by August 15, 2008, EPA will assume that you do not wish to join the De Minimis Consent Decree or the RD/RA Consent Decree. If EPA does not receive your written request for an ability to pay settlement by August 1, 2008, EPA will assume that you do not wish to settle with the Governments on the basis of a claim of financial hardship.

If you have any questions regarding the De Minimis Consent Decree or the RD/RA Consent Decree or this letter, you may contact me as follows:

Audrey Zucker  
U.S. Environmental Protection Agency  
Office of Environmental Stewardship  
1 Congress Street, Suite 1100 (SES)  
Boston, MA 02114-2023  
Tel: 617-918-1788  
Fax: 617-918-1809  
Email: [zucker.audrey@epa.gov](mailto:zucker.audrey@epa.gov)

Sincerely,



Audrey Zucker  
Senior Enforcement Counsel

cc: Karen Lumino, EPA Remedial Project Manager

Mark Gallagher, Department of Justice  
Jack Looney, CT Attorney General's Office  
Lori DiBella, CT Attorney General's Office

Enclosures:

1. List of addressees
2. Paper copy of Appendix A to the De Minimis Consent Decree
3. CD-ROM containing: De Minimis Consent Decree (with appendices) and RD/RA Decree (with appendices A, B, C, E & F).